UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P O Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,149	01/02/2002	Bob Janssen	DVME-1018US	9408

21302   7590   09/18/2009
KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

EXAMINER
BARQADLE, YASIN M

ART UNIT	PAPER NUMBER
2456	

MAIL DATE	DELIVERY MODE
09/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE
———————

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
———————

Ex parte BOB JANSSEN and PETER JANSEN
———————

Appeal 2009-003272
Application 10/040,149
Technology Center 2400
———————

Oral Hearing Held: August 12, 2009
———————

Before KENNETH W. HAIRSTON, JOHN C. MARTIN and BRADLEY
W. BAUMEISTER, Administrative Patent Judges.

ON BEHALF OF THE APPELLANTS:

KEVIN J. DUNLEAVY, ESQUIRE
KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA PA 19103

The above-entitled matter came on for hearing on Wednesday, August

12, 2009, commencing at 9:24 a.m., at The U.S. Patent and Trademark

Office, 600 Dulany Street, Alexandria, Virginia, before Ashorethea

Cleveland, Notary Public.

1   THE USHER: Good morning. Calendar Number 36, Appeal Number

2   2009-3272. Mr. Dunleavy.

3   JUDGE HAIRSTON: Okay. Good morning. You may begin.

4   MR. DUNLEAVY: Thank you.

5   The present invention is directed to solving the problem that you

6   encounter frequently in Windows operating systems, that you need two

7   different user interfaces to run local applications on the one hand and remote

8   applications on the other hand.

9   This typically requires the user to have a, first, desktop that's directed

10   to the local applications and have to switch to another desktop or an

11   interface to run remote applications. You've seen this in typical Windows

12   operating systems.

13   This interface-switching is a problem for users because it causes

14   confusion, requires extra work and there are other disadvantages to this, as

15   well.

16   Now, the invention is directed to providing the user with a single-user

17   interface that's provided by the server. The interface can be used to interface

18   with applications running on the server and at the same time it can be used to

19   execute local applications and display content which is generated locally.

20   This is an elegant solution to this problem because no

21   interface-switching is required back and forth by the user in order to run

22   either local or remote programs and therefore the --

23   JUDGE HAIRSTON: Who controls? Who controls these

24   applications between the server and user?

25   MR. DUNLEAVY: Well, remote applications which are located on

26   the server would be run on the server and local applications that are on the

1   client computer in case of a fat client would be run on the local computer;

2   and all of these applications are controlled by the user through the

3   single-user interface that's presented by the server to the user.

4   This also enables the users, for example, to easily switch from one

5   computer to another in the network because the user interface is coming

6   from the server; and so, you don't have to change the settings when you go

7   to another computer as you frequently have to do with a Windows-type

8   system in order for the user to get their interface that they're familiar with.

9   It also allows central management of the server applications and the

10 client displays; so, it makes the IT person's job a little bit easier because

11 most things can be managed centrally in this type of system, and it also gives

12 you the flexibility to use thin clients or fat clients.

13   So, if you only really want to run remote applications on the server,

14 then you can just have a very simple computer, thin client, in one location.

15   If you have another person in the network who needs to do special

16 things, like maybe graphics programs or has to run some Legacy software,

17 for example, or perhaps you want to minimize your license fees and only

18 license a particular program for a couple of users and not for the entire

19 company, you can set up specific fat-client computers which have local

20 software in this system easily in order to address some of these problems.

21   The system is very efficient because you only need to send across the

22 network the commands that are input into the user interface by the user and

23 then coming back you will have only screen-display information for the

24 remote applications and for local applications all you really need is a

25 command line coming back from the server to execute the local applications;

1   and then, the local applications again will send their screen-display

2   information out to the server and that will come back via the user interface.

3   So, you don't need, for example, application code located on the local

4   computer in order to run programs on the server like we do in many cases in

5   Windows applications. A lot of the time, some of the processing also occurs

6   at the local computer for the remote applications and data has to be sent back

7   and forth, as well. That can be avoided in this system.

8   Let's talk a little bit about Frese. Frese was the first reference over

9   which the claims were rejected as being anticipated.

10   Frese is directed to allowing remote control of applications over a

11   network from a local computer; and what Frese does is, when a person sits

12   down and turns on the computer, the first thing that happens is that an RDM

13   display program is selected using an HTML document. I think what

14   happens is, the browser in Frese will send an HTML document out to the

15   server with specific parameters saying, "I need this kind of display." The

16   display is then picked and provided by the server back to -- the program is

17   provided by the server back to the client computer and executed on the client

18   computer. That's important.

19   The primary function, I think, of the HTML document in Frese is to

20   identify the operating system on a particular client computer so that you can

21   get the right display program sent to the client computer for that particular

22   operating system. It can also have other specific parameters of the display

23   specified if you want to but Frese says that's an optional feature.

24   Now, Frese is really a completely different principle than the present

25   invention because in the present invention the server is actually running the

26   application that controls the display in the client computer whereas in Frese

1   the server just sends the program code over to the client computer but the

2   client computer actually executes the code and controls the display.

3   So, Frese comes up with a totally different solution to his problem,

4   namely, to run the display application, the interface application, on the client

5   computer rather than on the server.

6   Now, when we look at our claim one, our claim one has the language

7   in it that says that the system is configured to enable the server to control the

8   display on a screen of the displayed device, of a screen area having contents

9   generated locally on the client computer. Now, that's the key limitation that

10   we rely on for distinguishing from Frese.

11   Now, the Examiner takes the position that that claim limitation only

12   requires that you have a server and a client computer and a connection

13   between the server and the client computer and that the system is capable of

14   being provided with means to control the client display at the server.

15   JUDGE HAIRSTON: So, it's controlling not only the display but it's

16   controlling the local computer, right? You're sending an application from

17   the server to the local computer. You're displaying something which

18   scavenges, I guess, the local computer as it's running everything; right?

19   MR. DUNLEAVY: No. Actually what's happening in Frese is that

20   the code --

21   JUDGE HAIRSTON: No. I mean, your case, your invention.

22   MR. DUNLEAVY: Yeah; in our case it's running the graphic-user

23   interface on the local computer. It's not actually necessarily running

24   everything that's going on on the local computer but it's running the entire

25   user interface.

26   JUDGE HAIRSTON: So, it's running the --

1   MR. DUNLEAVY: Yes.

2   In Frese, the local computer runs the graphic-user interface.

3   Now, it's our position that the Examiner's interpretation of the claim

4   language is not legally correct because under the Examiner's interpretation

5   there would be no means required to run the user interface located on the

6   server. That's the Examiner's interpretation.

7   He basically says in this argument that if the server is capable of being

8   provided with such a means, it meets the claim. Our position is, no, that's

9   not correct. You actually need some means under this claim language to run

10   the local graphic-user interface in order to meet the claim.

11   We relied on the case of Boston Scientific vs. Cortis which interpreted

12   this claim language configured to enable to require that it be intentionally

13   and specifically made to act in a certain way.

14   If you look at our specification, some means is required; and the

15   specification talks about, for example, having an interface management

16   program located on the server. If you don't have that, as the Examiner's

17   position would be, then you wouldn't be able to actually meet the claim

18   language because the server is then not enabled to run the graphic-user

19   interface without that.

20   JUDGE BAUMEISTER: May I interrupt and ask a couple of

21   questions here?

22   MR. DUNLEAVY: Sure.

23   JUDGE BAUMEISTER: On claim one, line one, two, three, four,

24   where it talks about the system, it says the system comprises the means for

25   controlling and "is configured." "Is configured." That refers back to the

26   system?

1   MR. DUNLEAVY: Yes.

2   JUDGE BAUMEISTER: So, the means isn't playing into,

3 "configured to enable"? The system is configured to enable and it comprises

4 the mean?

5   MR. DUNLEAVY: Yes.

6   JUDGE MARTIN: So, the system comprises means for running the

7 local applications through the user interface. That's one aspect of it.

8   Now, the system is also configured to enable the server to control the

9 display on the screen of the displayed device. So, there has to be something

10 in the system which allows the server to control the display on the screen of

11 the displayed device; and the specification discloses, for example, the use of

12 an interface management program on the server.

13   Now, in Frese isn't the remote display

14 module -- that information was downloaded from the server and it controls

15 how things are displayed on the client; right?

16   MR. DUNLEAVY: It does control how things are displayed on the

17 client; but actually what happens is, yeah, the code is sent to the local

18 computer. So, in the case of Frese, the remote display module is actually run

19 on the client computer.

20   So, when the interface is up and running the server in Frese is not

21 participating in any way. It's not controlling. All it really does is provide

22 some code to the client computer to do the control. That's something

23 different than controlling the actual display.

24   So, as the user is using the display in Frese, the server is not

25 participating in that anymore. That's happening at the local computer.

1   JUDGE MARTIN: So, your definition of "controlling" is? How do

2 you explain control?

3   MR. DUNLEAVY: Well, the specification talks about control in that,

4 you know, the client will, for example, or the user will, for example, make

5 an input into the user interface, saying, I want to run this program. That will

6 go to the server and the server will then change the user interface in response

7 to that input. That's one of the aspects of the control of the user interface.

8   So, for example, it will open a window for the local application in an

9 area of the display if the client executes a local application. It will also add a

10 button on the taskbar so the client can switch back and forth between

11 applications, and those things are controlled by the server. The server

12 actually adds the window, sends that information to the local computer to

13 add the window and add the button to switch back and forth between

14 applications.

15   So, I think the word "control" we're interpreting as actually making

16 the decisions as to what the user interface will look like based on inputs

17 from the client and also to display the information from the applications, as

18 well.

19   JUDGE MARTIN: I have another question.

20   MR. DUNLEAVY: Sure.

21   JUDGE MARTIN: A comment you made just a few moments ago.

22 Maybe I misunderstood it. It sounded to me like you said that the server

23 downloads an application to the client and then the server isn't involved

24 anymore.

25   MR. DUNLEAVY: It's not involved in the graphic-user interface.

1   JUDGE MARTIN: But it is still involved in the running of the

2 application on the server?

3   MR. DUNLEAVY: Yes. All the server would do in Frese is, it

4 would be running the remote application and it would be sending

5 information back, you know, content for example generated by remote

6 application to the client but it would not actually be running the graphic-user

7 interface. That's done by the RDM output.

8   JUDGE MARTIN: Now, when you say "running the remote

9 application," which application of Frese is the remote application?

10   MR. DUNLEAVY: Well, Frese just wants to provide an interface at

11 the local computer so that you can run applications over a network.

12   JUDGE MARTIN: I'm sorry. I misspoke. The remote application is

13 the server application?

14   MR. DUNLEAVY: Yes.

15   JUDGE MARTIN: Okay. So, the server downloads enough

16 information to the RDM module on the client so that the server can then

17 send information to the client and have it displayed and also receive input

18 from the client; right?

19   MR. DUNLEAVY: Mm-hum.

20   JUDGE MARTIN: So, all the communications are HTML format;

21 right? That's a question. Is every time information goes back and forth

22 between the server and the client, is each one of those HTML transmission?

23 Is each one a document?

24   MR. DUNLEAVY: I'm not really sure about the answer to that. I

25 don't think there's enough detail in any of the prior-art documents to really

26 say that. It could be other formats, I would think.

1   But I think that the key distinction when we get back to Frese is that

2   in Frese it's the local client computer that's going to make the decision to

3   open a window. It's the local client computer that's going to put buttons on

4   the taskbar and take buttons off the taskbar; and also, it's the local client

5   computer that's going to close the windows.

6   In the present invention, those decisions are made at the server and

7   then only the information about what's going to be displayed on the client

8   computer is sent over.

9   So, there's a difference in where the decisions are made. As a result of

10   that, you don't need as much processing power, for example on a local

11   computer either, because you're not executing the decisions for the user

12   interface at the local computer.

13   JUDGE MARTIN: I have another question about locally-generated

14   contents. Now, as I understand the Examiner, he's saying that the

15   information that's displayed on the client computer is generated locally when

16   the server is asking the user to input information, like password information

17   into the client computer.

18   I'm not sure whether the Examiner is saying that the fact that client

19   computer is generating the characters and displaying them, whether that is

20   what the Examiner considers to be contents that are generated locally, the

21   fact that the display is generated locally, or whether the Examiner wants us

22   to take into account that the user then responds to that request by typing in

23   information which will probably appear on the screen before he hits the

24   "send" button to send it back to the server.

25   What are your views on both of those interpretations?

1   MR. DUNLEAVY: Well, I think that the claim talks about providing

2   input through the user interface. So, the providing input I think is what

3   applies to the situation when the user is typing in a password. That would be

4   considered input. I think the Examiner confuses "input" with "content." So,

5   that's one aspect of it.

6   The other aspect of it is that: I think the Examiner also confuses the

7   graphic-user interface itself with content.

8   In other words, some of the comments made by the Examiner suggest

9   that the window itself may be locally-generated content, and that's not

10   correct.

11   The claims talk about the user interface as being an element and then

12   content being a different element of the claim.

13   So, we would take the position that the windows and the buttons are

14   the user interface. The Examiner seems to be arguing that that is content;

15   but that is not really content.

16   Our position is that content is really the situation where you're running

17   a local application and the local application generates, for example, a report

18   that you want to look at. That's the kind of content we're talking about. So,

19   that's what is meant in the claim language by content, something coming

20   from the local application that is going to be displayed to the user in the

21   window, for example, of the user interface that's provided by the server.

22   JUDGE MARTIN: So, that wouldn't include the user typing in a

23   password and having it displayed?

24   MR. DUNLEAVY: No. I think the user typing in a password is

25   really what we call input to an application by the user and that is also

1   another element in the claim. The input device is provided. It's line four of

2   claim one for providing input to an application through the user interface.

3   JUDGE MARTIN: So, we are supposed to, if I understand you,

4   interpret content generated locally by the client computer to mean

5   information is generated locally but isn't being input by the user?

6   MR. DUNLEAVY: Yes. The claim says, contents generated locally

7   on the client computer. So, the language "on the client computer" means

8   that the client computer is actually what's generating the content, not the

9   user.

10   JUDGE MARTIN: Well, I might agree if it says "generated locally

11   by the computer" but "generated locally on the computer," that sounds like

12   that would allow the user to be putting information on a computer.

13   MR. DUNLEAVY: Yeah; but you know, it's really the user that's

14   generating the input. It's not generated on the computer. I mean, it's typed

15   into the interface but it's not generated on the computer. The user is the one

16   generating the password. It's coming from here as "input" being a key word.

17   So, it's not really generated on the computer.

18   So, I still think that the combination of "generated on" makes a

19   distinction there as opposed to just having the content being generated by the

20   user and then input to the computer.

21   JUDGE BAUMEISTER: Can the user generate content?

22   MR. DUNLEAVY: The user can generate content in that, for

23   example, the user may input some information that might --

24   JUDGE BAUMEISTER: Scanning something?

25   MR. DUNLEAVY: Yeah, scanning something, or maybe inputting

26   names and address that might show up in a display generated by the local

1   computer. You know, maybe the user is creating a document. Part of the

2   document content could be created by the user; part of it by the computer.

3   So, just to sum up: I think that our position is that the mere

4   transmission of the code, RDM output to the local computer which is then

5   run on the local computer by the -- a mere transmission by the server is not

6   enough to control the local user interface for the reasons we specify.

7   Also, Frese does not have a server-controlled user interface which

8   displays content which is generated on the local computer.

9   So, those are the two key points that I think distinguish the claims

10 from Frese.

11   JUDGE BAUMEISTER: Before we go on to Willems, I have a

12 couple more questions. Claim one sets forth four means that you say in your

13 Brief are all means-plus-function claim language; right?

14   MR. DUNLEAVY: Yes.

15   JUDGE BAUMEISTER: And the first mean is the means of

16 providing the client computer with a user interface. I understand that

17 corresponds to the interface management program?

18   MR. DUNLEAVY: Yes.

19   JUDGE BAUMEISTER: The second mean is the means for running

20 the program on the server and the third mean is the means for running the

21 program on the computer and I understand those both correspond to your

22 processor, RAM, things like that with respect to the computing system.

23 Then the fourth means is the means for controlling the locally-run

24 applications through user interface provided by the server and that is the

25 subscriber interface program?

26   MR. DUNLEAVY: Yes.

1   JUDGE BAUMEISTER: Am I right that the interface management

2 program and subscriber interface program are both software programs?

3 Right?

4   MR. DUNLEAVY: I think as they are disclosed in the specification,

5 yes.

6   JUDGE BAUMEISTER: Is there any description or disclosure in the

7 specification for the underlying structure or details of the software program?

8   MR. DUNLEAVY: I don't think there is detailed description in the

9 specification of these software programs but a skilled person at the time this

10 application was filed could implement these types of programs without

11 difficulty, and that's why the specification doesn't go into great detail about

12 that.

13   JUDGE BAUMEISTER: I'm not really quite as concerned about the

14 enablement aspect. Are you familiar with Finisar and --

15   JUDGE HAIRSTON: Aristocrat.

16   JUDGE BAUMEISTER: -- Aristocrat, dealing with 112-sixth for use

17 function when the use function disclosed is software and then those cases

18 say a specification has to disclose the underlying structure or diagram or

19 some details or structural details of the software itself and not just merely the

20 intended function or the use of the software?

21   MR. DUNLEAVY: Yes.

22   JUDGE BAUMEISTER: If it's not done with 112-sixth, does it

23 present a problem?

24   MR. DUNLEAVY: Well, I think in this case, there are some

25 structural details of the software described in the specification, more than

1 just the intended function. If you will permit me just a moment to access my

2 specification here.

3   JUDGE BAUMEISTER: Sure. Take your time.

4   (Pause.)

5   MR. DUNLEAVY: So, there are some details, I think, disclosed at

6 least on page ten of the specification. So, to start, I guess, at line 16. So, it

7 explains in a little bit of detail how the underlying system is working. "The

8 user clicks on a button associated with the application." "The interface

9 management system ensures that the user can control." "If the user clicks on

10 the button, a switch is made to the application. Messages are exchanged

11 between the server and client computer which are handled by the

12 subscriber," and it talks about protocols by which signals between the client

13 computer and the server allow termination of locally-run applications.

14   The other point here I think is that, you know, these kinds of programs

15 are well known in programs of the art and I think there's some well

16 established case law also that says patent applicant is not required to disclose

17 things that are common, general knowledge to the skilled person.

18   I think the skilled person can -- you know, it was common, general

19 knowledge at the time to be able to make or just take an existing interface

20 management program, for example, or an existing subscriber program and

21 apply it to the system in the present invention.

22   JUDGE BAUMEISTER: Okay. One other question on claim 19.

23   MR. DUNLEAVY: Mm-hum.

24   JUDGE BAUMEISTER: Claim 19 is broader; right? Eighteen and

25 19 are not directed to the whole system? They're directed to the interface

26 management program and subscriber program respectively. So, claim 19,

1   the computer program stored on a computer -- that's corresponding to the

2   subscriber interface program?

3   MR. DUNLEAVY: Well, I think it's a combination of both the

4   subscriber interface program and the interface management program in

5   claim 19. I think there are elements in claim 19 that refer to both of those

6   devices.

7   JUDGE BAUMEISTER: Can you point to the part in claim 19 that's

8   directed towards the interface management program?

9   MR. DUNLEAVY: Well, it says that the computer program -- this is

10   line -- one, two, three, four, five, six. Starting sort of at the end of line six,

11   "Wherein the computer program when run on the computer causes the

12   computer to accept the user interface, the user interface being configured for

13   controlling the at least one locally-run application and being provided by the

14   server."

15   So, we're talking about then the user interface provided by the server

16   and also controlling at least one locally-run application. Those are I think

17   included in the specification. Those are functions of the interface

18   management program rather than the subscriber program.

19   JUDGE BAUMEISTER: My understanding is the interface program

20   and subscriber program are complementary. The interface program is on the

21   server. The subscriber interface program is on the computer. The interface

22   management program forwards the interface to the local computer which is

23   picked up by the subscriber interface program and these two interface

24   programs talk to each other to handle -- ?

25   MR. DUNLEAVY: Yes. I think that's a correct statement.

1   JUDGE BAUMEISTER: And so, the interface management program

2 is stored on the server. It's not stored on the client computer; and claim 18 is

3 directed towards the program on the server, "a computer program stored on a

4 computer readable medium wherein the computer program can be loaded

5 onto a server," contrasted with claim 19, "a computer program stored on a

6 computer readable medium wherein the computer program can be loaded

7 onto a computer."

8   MR. DUNLEAVY: Mm-hum.

9   JUDGE BAUMEISTER: Then am I also correct that the computer

10 program on this computer readable medium is the only element that is being

11 positively recited? The computer itself, the server, the user interface, the

12 network, the processor, the means for running, those are all inferentially

13 recited elements but the claim is directed only to this computer program on

14 the computer --

15   MR. DUNLEAVY: Yes. I believe you're correct. I believe I

16 misspoke earlier about that. So, I think that taking that a step further, the

17 important point about claim 19, computer program, is that -- I think it is the

18 subscriber program, as you pointed out. I think that's a correct

19 interpretation.

20   This subscriber program causes the computer, a local computer to

21 accept the user interface being provided from the server, and that would be a

22 difference from Frese wherein the interface is actually being generated at the

23 local computer. It's not being caused to be accepted from a server computer.

24   JUDGE BAUMEISTER: And the claim language says, "The user

25 interface configured for controlling the at least one locally-run program, the

26 user interface being provided by the server." I'm wondering just how does

1   being provided by the server -- whether the interface that is provided by the

2   server comes from anywhere else, how that would affect this computer

3   program that's loaded on the machine?

4   How does being provided by the server structurally distinguish or

5   limit a computer program? I'm trying to figure out, is this like a

6   product-by-product process limitation?

7   MR. DUNLEAVY: Well, I think there are a couple of structural

8   differences. First of all, the subscriber program of claim 19 is going to have

9   to have a structure that will accept the user interface coming across from the

10   server as opposed to taking user interface from the local computer in Frese.

11   The second point is, I think there has to be some structure to execute

12   for the computer program in claim 19 wherein the subscriber program would

13   be configured so that it could accept from the server a command line coming

14   back to execute the local program. That's also something that's not

15   happening in Frese, is that the command line is not coming back from the

16   server to execute the local program.

17   In Frese, when you execute a local program, the command goes

18   directly from the user interface to the local computer. It doesn't go out to the

19   server and then come back to the command line.

20   So, I think you have to have a little different software structure so that

21   you can accept your command lines coming from the server as opposed to

22   coming directly from the user interface.

23   JUDGE HAIRSTON: Counsel, can we get you to sum up? We're

24   running a little over here.

25   MR. DUNLEAVY: Okay. Do we want to talk Willems at all?

26   JUDGE HAIRSTON: Yes. Go ahead. Yes. Please.

1   MR. DUNLEAVY: Okay. Willems is a system that's directed to

2 disparate Windows environments, for example, a local Windows

3 environment and then a remote ex-Windows environment that's described in

4 Willems.

5   Willems is designed to provide user control of the remote

6 ex-Windows application.

7   So, in Willems, the graphic-user interface is provided by the

8 locally-run Windows manager in figure nine embodiment of Willems; and

9 the reason for that is primarily to reduce network traffic. That's the primary

10 goal of Willems. We see that repeated several times throughout the Willems

11 application.

12   Willems also has a secondary goal of reducing the front-end code and

13 achieves that also by placing the graphic-user interface control on the local

14 computer.

15   Now, Willems lacks a couple of features of the present invention. It

16 lacks server control of the client-user interface and it also lacks the ability to

17 run local applications or execute local applications and/or display local

18 content in a server-controlled interface.

19   So, Willems does not really provide then a single-user interface where

20 you can interface with both the server and remote programs and local

21 applications, as well. It's really just directed to providing a specialized

22 interface for interfacing with the remote Windows, ex-Windows

23 applications.

24   So, I think in the Willems system, if you wanted to run local apps, you

25 probably still would have to deal with the problem of switching the

26 interfaces back and forth to do that locally.

1   So, Willems' primary goal is to reduce network traffic. The secondary

2 goal is to reduce front-end code.

3   The Examiner initially rejected this application over figure nine and

4 then withdrew that rejection and then came back with a new rejection based

5 on the prior-art, figure eight of Willems.

6   I think that the original objection was withdrawn because Willems has

7 a clear teaching that you should put the graphic-user interface controller on

8 the local computer in order to reduce the network traffic.

9   The Examiner is doing some contortions in his arguments to try to say

10 that, well, this teaching of Willems doesn't apply to the prior-art

11 embodiment. But the problem with the Examiner's rejection is that you still

12 have to make two significant modifications to the prior-art embodiment in

13 order to get to the present invention. You need some reason for making

14 those modifications.

15   If you look at the Willems disclosure, the reasons that are given for

16 making modifications would be to reduce the network traffic and front-end

17 code; and Willems then says: Here's how you do it. You put the controller

18 for the graphic-user interface on the local computer.

19   So, I think the Examiner's analysis here is really a hindsight

20 analysis and it ignores the most important teachings of Willems in that

21 analysis.

22   JUDGE HAIRSTON: Did you make a hindsight argument in your

23 Brief?

24   MR. DUNLEAVY: I don't think we specifically stated the hindsight

25 argument in our Brief; that's correct.

1   Now, the Examiner takes the position that a skilled person would be

2 motivated to combine the ex-server with the windows manager to therefore

3 put the graphic-user interface in control on the server. It's our position a

4 skilled person wouldn't do that, reading Willems, because that does not

5 reduce the network traffic as compared to the figure nine embodiment of

6 Willems; and also, we don't know what the impact of that is on the front-end

7 code at all. The Examiner speculates about that but doesn't really provide

8 any evidence or indication as to what front-end code would or would not be

9 required in order to implement that embodiment.

10   Now, even if you did put those two things together, as the Examiner

11 suggests, you're still not quite to the present invention because you still don't

12 have a way to execute a local application or display content generated on the

13 local computer in that user interface. That user interface is only going to be

14 displaying content and executing the remote applications in the ex-Windows

15 environment which is on the server.

16   So, even if the skilled person would combine those two things, you

17 still wouldn't get to the present invention because you'd still have one

18 interface for the ex-Windows. You then have to switch to another interface

19 if you wanted to run the local application for display of the content.

20   So, Willems just doesn't have any teachings at all, as far as we can

21 find, to execute local apps through its interface or to display content

22 generated on the local computer through that user interface.

23   So, that pretty much summarizes, I think, the key points in relation to

24 Willems.

25   Do you have any other questions?

26   JUDGE BAUMEISTER: No questions.

1   JUDGE MARTIN: No more questions.

2   JUDGE HAIRSTON: No more questions.

3   Thank you, counsel.

4   MR. DUNLEAVY: Okay. Thank you very much for your time.

5   (Whereupon, at approximately 10:05 a.m., the proceedings were

6   concluded.)

7